1947. **File No.** B. Mamlatdars Court 47

P 19F

Legal Deptt.
B **BRANCH**

Subject:— A Bill to repeal the Mamlatdars Courts (Amdt.) Act, 1942 and to amend certain provisions thereof

L.A. Bill No. XXXIV of 1947

Bom. Act No. XLII of 1947.

File No. B. Mamlatdars Court/47

Gen. 194 a.

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29/5.

Office of the R.L.A.

The requisite draft Bill, to repeal the Mamlatdars' Courts (Amendment) Act, 1942 (Bom.XXIV of 1942) and to re-enact the provisions contained in section 2 thereof, is sent herewith along with a revised Statement of Objects and Reasons.

2. The proposed Bill is intra vires the Provincial Legislature under section 100(3) of the Government of India Act, 1935, as the subject matter thereof falls under entries 1,2 and 21 in the Provincial Legislative List in the Seventh Schedule thereto. The Bill does not require any sanction or recommendation under that Act or affect any of the special responsibilities of the Governor under section 52 thereof. As the Bill does not relate to any matter in the Concurrent Legislative List, it is not necessary to reserve it e for the consideration of the Governor General, with reference to section 107(2) of the said Government of India Act, 1935.

Sd/- P.B.LAD,
1.5.47.

Remembrancer if Legal Affairs.

U.R. to R.D. No.4524 dated the 3rd May 1947.

4.Ca.
M.V.V.
28/5.

No.11251.
Legal Department,
Bombay Castle, 25th November'47

From

P.M.Lad, Esquire, I.C.S.
Secretary to the Government of Bombay.

To

The Private Secretary to the Governor of Bombay;

Subject:- A Bill to repeal the Mamlatdars' Courts (Amendment) Act, 1942, and to re-enact certian provisions thereof.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forrarded herewith for the assent of His Excellency the Governor the authentic copy of the Bill to repeal the Mamlatdars' Courts (Amendment) Act, 1942, and to re-enact certain provisions thereof, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 10th September 1947 and on the 17th October 1947, respectively.

2. The subject-matter of the Bill falls under entries 1,2 and 21 in List II in the Seventh Schedule to the Government of India Act, 1935.

3. As the Bill does not relate to any matter in the Concurrent Legislative List, it is not necessary to reserve it for the consideration of the Governor-General with reference to section 107(2) of the Government of India Act, 1935.

4. The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

5. I also forward herewith one copy of each of the papers noted in the margin. The

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.
2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.
3. Bill as read for the third time and passed by the Bombay Legislative Council.

P.T.O.

4.	Extracts from the proceedings of the Bombay Legislative Assembly dated the 10th September 1947 and of the Bombay Legislative Council dated the 17th October 1947.	Bill was not

referred to a Select Committee.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/- P.H.LAD,
25/11/47.

Secretary to Government.

Through

The Secretary to the Government of Bombay

Revenue Department.

4-Cs.

H.V.V.
29/5.

No. P.S.G. 5643.
Office of the Private Secretary to the Gover-
Government House, (nor,
Bombay, 5th December 1947.

From

L.E. Bagshawe, Esquire, I.C.S.,
Private Secretary to the Governor of Bombay.

To

The Secretary to the Government of Bombay,
Legal Department.

Subject:- The Mamlatdars' Courts (Amendment)
Bill, 1947.

Sir,

With reference to your letter No.11257, dated the 25th November 1947, on the subject mentioned above, I return herewith, with His Excellency the Governor's assent signified thereon, the authentic ~~x~~ copy of the Mamlatdars' Courts (Amendment) Bill, 1947.

Your obedient servant,

Sd/- L.E.Bagshawe,

Private Secretary,
to....the Governor of Bombay.

4-Cs.

M.V.V.
29/5.

Bills.
A Bill to repeal the Mamlatdars' Courts (Amendment) Act, 1942, and to re-enact certain provisions thereof.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 8055.
Bombay Castle, 5th August.1947.

Memorandum from the Revenue Department No.2553/45-F, dated the 26th May 1947.- Transferring for necessary action, the papers relating to a Bill to repeal the Mamlatdars' Courts (Amendment) Act, 1942, and to re-enact certain provisions thereof.

RESOLUTION :- The Bill with the Statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 5th August 1947, as Bill No. XXXIII of 1947.

2. The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette on the 12th August 1947.

3. The dates of the various publications should be reported to the Secretary to the Bombay Legislature Department.

By order of the Governor of Bombay,

Sd/- D.V.Vyas,
Secretary to Government.

To

The Manager, Government Central Press, Bombay(with the Bill and the Statement of Objects and Reasons and with a request that 230 Gazette copies of the Bill and the S.O.R. may be forwarded to the Secretary to the Bombay Legislative Department for distribution to the Members of the Bombay Legislative Assembly , 25 copies for the use of the Legal Department and 20 copies for the use of the Revenue Department.).

The Revenue Department,
*The Oriental Translator to Government,
The Secretary to the Bombay Legislature Department,
The Director of Publicity, Bombay.

With a copy of the Bill and S.O.R.

* With five extra copies of the Bill.

4-Cs.
M.V.V.
29/5.

Acts.
Publication of the Mamlatdars' Courts (Amendment) Act, 1947.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 11852.
Bombay Castle, 9th December 1947.

Letter to the Private Secretary to the Governor, No. 11251, dated the 25th November 1947.

Letter from the Private Secretary to the Governor, No. P.S.G. 5643, dated the 5th December 1947.

"With reference to your letter No. 11257, dated the 25th November 1947, on the subject mentioned above, I return herewith, with His Excellency the Governor's assent signified thereon, the authentic copy of the Mamlatdars' Courts (Amendment) Bill, 1947."

RESOLUTION:- The law should be published as Bombay Act No.XLII of 1947, in the Bombay Government Gazette dated the 10th December 1947.

2. The Act should be translated into Marathi, Gujarat, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department with reference to the Memorandum from that Department No.2553/45-F, dated the 26th May 1947.

By order of the Governor of Bombay,

Sd/- S.B.Palekar,
Deputy Secretary to Government.

To

The Manager, Government Central Press, Bombay,(with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department).

The Revenue Department,	with a copy of the Act.
*The Oriental Translator to Government,	
The Bombay Legislature Department,	
The Director of Publicity, Bombay.	

* With five extra copies of the Act.

4-Cs.
M.V.V.
29/5.

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. XXXIII OF 1947.

A Bill to repeal the Mamlatdars' Courts (Amendment) Act, 1942, and to re-enact certain provisions thereof.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935, it is expedient to repeal the Mamlatdars' Courts (Amendment) Act, 1942, and to re-enact certain provisions thereof; It is hereby enacted as follows :—

26 Geo. 5, Ch. 2.

Bom. XXIV of 1942.

1. This Act may be called the Mamlatdars' Courts (Amendment) Act, 1947. Short title.

Bom. XXIV of 1942.

2. The Mamlatdars' Courts (Amendment) Act, 1942, is hereby repealed and section 2 thereof is re-enacted. Repeal of Bom. XXIV of 1942 and re-enactment of section 2 thereof.

STATEMENT OF OBJECTS AND REASONS.

Under sub-section (4) of section 93 of the Government of India Act, 1935, any law made by the Governor during the section 93 regime continues to have effect until two years have elapsed from the date on which the Proclamation ceases to have effect unless sooner repealed or re-enacted by Act of the Provincial Legislature. It is considered desirable to continue in force the

amendments made by Bombay Act No. XXIV of 1942 in the Mamlatdars' Courts Act, 1906, empowering the Collectors to delegate the power of hearing revision applications to the Assistant Collectors or Deputy Collectors. It is therefore proposed to repeal the said Governor's Act and to re-enact the provisions contained in section 2 thereof.

Dated 23rd May 1947. (Signed) MORARJI DESAI.

By order of the Governor of Bombay,

D. V. VYAS,

Secretary to the Government of Bombay,
Lega epartm

Bombay, dated 5th August 1947.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

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L. A. BILL No. XXXIII OF 1947.

A Bill to repeal the Mamlatdars' Courts (Amendment) Act, 1942, and to re-enact certain provisions thereof.

(As read for the third time and passed by the Legislative Assembly on the 10th September 1947.)

26 Geo. 5, Ch. 2. Bom. XXIV of 1942.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935, it is expedient to repeal the Mamlatdars' Courts (Amendment) Act, 1942, and to re-enact certain provisions thereof; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Mamlatdars' Courts (Amendment) Act, 1947.

Bom. XXIV of 1942.

Repeal of Bom. XXIV of 1942 and re-enactment of section 2 thereof.

2. The Mamlatdars' Courts (Amendment) Act, 1942, is hereby repealed and section 2 thereof is re-enacted.

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STATEMENT OF OBJECTS AND REASONS.

Under sub-section (4) of section 93 of the Government of India Act, 1935, any law made by the Governor during the section 93 regime continues to have effect until two years have elapsed from the date on which the Proclamation ceases to have effect unless sooner repealed or re-enacted by Act of the Provincial Legislature. It is considered desirable to continue in force the amendments made by Bombay Act No. XXIV of 1942 in the Mamlatdars' Courts Act, 1906, empowering the Collectors to delegate the power of hearing revision applications to the Assistant Collectors or Deputy Collectors. It is therefore proposed to repeal the said Governor's Act and to re-enact the provisions contained in section 2 thereof.

Dated 23rd May 1947.

MORARJI DESAI.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XXXIII OF 1947]

(As read for the third time and passed by the Legislative Assembly on the 10th September 1947.)

A Bill to repeal the Mamlatdars' Courts (Amendment) Act, 1942, and to re-enact certain provisions thereof.

[Mr. Morarji R. Desai, M.L.A.]

P Bk Hb 144—2

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

Registered No. B-1

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The Bombay Government Gazette

PUBLISHED BY AUTHORITY

WEDNESDAY, 10TH DECEMBER 1947.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

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The following Act of the Bombay Legislature having been assented to by the Governor on the 5th December 1947 is hereby published for general information.

P. M. LAD,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XLII OF 1947.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 10th December 1947.)

An Act to repeal the Mamlatdars' Courts (Amendment) Act, 1942, and to re-enact certain provisions thereof.

26 Geo. 5, Ch. 2. Bom. XXIV of 1942.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935, it is expedient to repeal the Mamlatdars' Courts (Amendment) Act, 1942, and to re-enact certain provisions thereof; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Mamlatdars' Courts (Amendment) Act, 1947.

Bom. XXIV of 1942.

Repeal of Bom. XXIV of 1942 and re-enactment of section 2 thereof.

2. The Mamlatdars' Courts (Amendment) Act, 1942, is hereby repealed and section 2 thereof is re-enacted.

The following Act of the Bombay Legislature having been assented to by the Governor on the 5th December 1947 is hereby published for general information.

P. M. LAD,

Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XLIII OF 1947.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 10th December 1947.)

An Act to repeal and re-enact the Bombay Agricultural Pests and Diseases Act, 1941, providing for the prevention of the introduction, spread or re-appearance of insect pests, plant diseases and noxious weeds injurious to crops, plants or trees in the Province of Bombay.

WHEREAS in view of the provisions of sub-section (*4*) of section 93 of the Government of India Act, 1935, it is expedient to repeal and re-enact the Bombay Agricultural Pests and Diseases Act, 1941, providing for the prevention of the introduction, spread or re-appearance of insect pests, plant diseases and noxious weeds injurious to crops, plants or trees in the Province of Bombay; It is hereby enacted as follows :— 26 Geo. 5, Ch. 2. Bom. XIV of 1941.

Short title and extent.

1. (*1*) This Act may be called the Bombay Agricultural Pests and Diseases Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context—

(*1*) "Assessor" means an assessor appointed under section 14;

(*2*) "Insect pest" means any pest declared to be an insect pest by notification under section 3;

(*3*) "Inspector" means an inspector appointed under section 14;

(*4*) "Notified Area" means any area specified in the notification issued under section 3 in which a declaration made under the said section shall remain in force;

(*5*) "Noxious weed" means any weed declared to be a noxious weed by notification under section 3;

(6) "Occupier" means the person having for the time being the right of occupation of any land or premises, or his authorised agent or any person in actual occupation of the land or premises;

(7) "Pest" means any insect or other invertebrate animal;

(8) "Plant" includes the fruit, leaves, bark, cuttings and any living portion of a plant but does not include the seed:

Provided that the Provincial Government may by notification in the *Official Gazette* direct that the seed of any particular plant shall be included in the definition of plant;

(9) "Plant disease" means any fungoid, bacterial, parasitical or other disease declared to be a plant disease by notification under section 3;

(10) "Prescribed" means prescribed by rules made under section 17.

Power to declare insect pests, plant diseases and noxious weeds and direct measures to eradicate or prevent them.

3. Whenever it appears to the Provincial Government that any pest, disease or weed is injurious to crops, plants or trees in any local area and that it is necessary to take measures to eradicate such pest, disease or weed, or to prevent its introduction, spread or re-appearance, the Provincial Government may, by notification in the *Official Gazette*,—

(i) declare that such pest, disease or weed is an insect pest, plant disease or noxious weed;

(ii) specify the local area within which and the period during which such declaration shall remain in force;

(iii) prohibit or restrict the removal of any plant or tree from one place to another, and

(iv) direct the carrying out of such preventive or remedial measures including the destruction of any pest, disease or noxious weed or any crops, plants or trees, as the Provincial Government may deem necessary, in order to eradicate such pest, disease or weed or to prevent its introduction, spread or re-appearance.

Duties of occupier on the issue of a notification under section 3.

4. On the issue of a notification under section 3, every occupier within the notified area shall carry out the preventive or remedial measures mentioned in such notification.

Power of Inspector to enter upon any land or premises.

5. Any Inspector may, after giving the prescribed notice, enter upon any land or premises situated in a notified area for the purpose of ascertaining—

(i) whether there is any insect pest, plant disease or noxious weed on such land or premises; and

(*ii*) whether the preventive or remedial measures mentioned in the notification issued under section 3 have been carried out."

Notice to occupier to carry out preventive or remedial measures.

6. (*1*) If, on inspection of any land or premises under section 5, the Inspector finds that there is any insect pest, plant disease or noxious weed on such land or premises or that the preventive or remedial measures mentioned in the notification issued under section 3 have not been carried out, the Inspector may, subject to the general or special order of the Provincial Government, call upon the occupier of such land or premises, by notice in writing, to carry out such preventive or remedial measures within the time specified in such notice.

(*2*) Within seven days from the date of the service upon him of the notice under sub-section (*1*), the occupier may prefer an appeal to the Collector or such other officer as the Collector may appoint in this behalf.

(*3*) On receipt of the appeal under sub-section (*2*) the Collector or other officer, as the case may be, may extend the time specified in the notice under sub-section (*1*) and shall, after giving the occupier an opportunity of being heard, pass such order on the appeal as he thinks fit.

(*4*) Every order passed under sub-section (*3*) shall be final.

Failure to comply with notice under section 6 and power of Inspector to carry out measures.

7. (*1*) If an occupier upon whom a notice has been served under sub-section (*1*) of section 6 does not comply with such notice within the time specified therein, or if an appeal has been preferred under sub-section (*2*) of section 6, does not comply with the order passed on such appeal, the Inspector may carry out the preventive or remedial measures mentioned in such notice or order.

(*2*) The costs of any preventive or remedial measures carried out under sub-section (*1*) shall be payable by the occupier and shall be recoverable from him as an arrear of land revenue.

(*3*) Any such occupier may, within thirty days from the date of the first demand of such costs from him, prefer an appeal to the Collector or to such other officer as the Collector may appoint in this behalf on the ground that—

(*i*) the costs include charges for items other than the cost of labour, material or use of implements, or

(*ii*) the charges for labour or material or use of implements are unreasonably high.

(*4*) On receipt of the appeal under sub-section (*3*), the Collector or other officer, as the case may be, shall, after giving the occupier an opportunity of being heard, pass such order thereon as he thinks fit.

(*5*) Every order passed under sub-section (*4*) shall be final

Compensation for destruction of trees or plants.

8. (*1*) If, in carrying out any preventive or remedial measures under sub-section (*1*) of section 7, the Inspector destroys or causes to be destroyed—

(*a*) any tree which is infected with an insect pest or a plant disease, or

(*b*) any plants some or all of which are infected with insect pest or plant disease and which are grown so closely together that it is not practicable to treat each plant individually, or

(*c*) any plants or trees, which though not infected at the time with an insect pest or a plant disease, are, in the opinion of the Inspector, liable to such infection,

the Inspector shall give notice to the occupier of the land or premises on which such trees or plants were grown stating particulars of the trees or plants destroyed and his estimate of their value.

(*2*) When any tree or plant is destroyed under sub-section (*1*), the occupier shall be entitled to compensation determined in the manner provided in section 11.

Compensation for trees or plants destroyed by occupier.

9. If an occupier in carrying out any preventive or remedial measures, directed to be carried out by the notification issued under section 3 or the notice given under sub-section (*1*) of section 6, destroys any tree or plant in accordance with such direction, he shall be entitled to such compensation as he would have been entitled to under section 8 if such tree or plant had been destroyed by the Inspector.

Procedure for claims for compensation.

10. Every claim for compensation shall be made in writing to the Assessor within one month from the date of—

(*i*) the notice given under sub-section (*1*) of section 8, if the claim is made under the said section, or

(*ii*) the destruction of the tree or plant, as the case may be, if the claim is made under section 9.

Award of Assessor; Appeal.

11. (*1*) On receipt of any claim under section 10, the Assessor shall, subject to the provisions of sub-section (*2*) and after making an enquiry in the prescribed manner and taking such evidence as he thinks fit, fix the amount of compensation due to the occupier under the provisions of this Act and make an award for such amount.

(*2*) The amount of compensation shall—

(*a*) for every destroyed tree of the kind referred to in clause (*a*) of sub-section (*1*) of section 8, not exceed one-half of the value of the said tree;

(*b*) for every destroyed plant of the kind referred to in clause (*b*) of sub-section (*1*) of section 8, not exceed the three-fifths of its value; and

(*c*) for every destroyed plant or tree of the kind referred to in clause (*c*) of sub-section (*1*) of section 8, be its full value:

Provided that no compensation shall be payable for—

(*i*) any noxious weed destroyed;

(*ii*) any cotton plant destroyed in order to eradicate or prevent the introduction or reappearance of any insect pest or plant disease;

(*iii*) the destruction of trees and plants infected with any insect pest or plant disease which in the opinion of the Inspector contracted infection due to the negligence of the occupier in carrying out the preventive or remedial measures mentioned in the notification issued under section 3.

Explanation.—For the purposes of this section, value means the value of a tree or plant at the time of its destruction.

(*3*) If any amount is due from the occupier on account of costs incurred in carrying out the preventive or remedial measures under sub-section (*1*) of section 7, the whole or part of the amount of compensation awarded to him, as may be necessary, shall be set off against the amount of costs due from him.

(*4*) A copy of every award made by an Assessor shall be sent to the occupier to whom such compensation has been awarded and to the Inspector of the notified area concerned.

(*5*) The occupier or the Inspector, as the case may be, may, within 30 days from the date of receipt of a copy of the award under sub-section (*4*), prefer an appeal to the Collector against the award.

(*6*) On receipt of the appeal under sub-section (*5*), the Collector shall, after giving the occupier and the Inspector an opportunity of being heard, pass such order thereon as he thinks fit.

(*7*) Every order passed under sub-section (*6*) shall be final.

Duty of certain village officers to report appearance of insect pest, plant disease or noxious weed.

12. (*1*) If any insect pest, plant disease or noxious weed appears in any village adjoining a notified area, the village officers of such village shall forthwith report the fact to the Collector or such other officer as the Provincial Government may appoint in this behalf.

(*2*) The Collector or such other officer, as the case may be, shall on receipt of such report and after making such further inquiry as he may deem necessary forward to the Provincial Government with his remarks thereon.

Penalty.

13. (*1*) Whoever removes any plant or tree in contravention of the directions contained in a notification issued under section 3 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(2) Any occupier who fails to comply with a notice given under sub-section (1) of section 6 or with any order passed on appeal under sub-section (3) of section 6 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(3) Whoever commits a breach of the provisions of any rule made under section 17 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(4) Whenever any person is convicted under this Act, the Court may, in addition to the penalty imposed under this Act, order the destruction of any plant or tree of the kind referred in clause (a), (b) or (c) of sub-section (1) of section 8.

Appointment of Inspectors and Assessors.

14. The Provincial Government may, by notification in the *Official Gazette*, appoint persons as Inspectors and Assessors for such local areas as may be specified in the notification.

Bar of suit or other legal proceedings.

15. (1) No suit, prosecution or legal proceedings shall lie against any person in respect of anything in good faith done or intended to be done under this Act.

(2) No prosecution under this Act shall be commenced without the previous sanction of the Collector, nor after six months from the date of the commission of the alleged offence.

Delegation of powers.

16. The powers conferred on the Provincial Government under this Act may, with the exception of the powers under sections 3 and 17, be delegated by the Provincial Government to any officer.

Rules.

17. (1) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely:—

(i) the manner of giving notice under section 5;

(ii) the manner of making of an enquiry under sub-section (1) of section 11; and

(iii) the mode of determining the value of trees and plants for the purposes of this Act.

(3) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette*.

Repeal of Bom. XIV of 1941.

18. The Bombay Agricultural Pests and Diseases Act, Bom. XIV of 1941, 1941, is hereby repealed.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.